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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

Alberto De Jesus Gallego,
Debtor.

Chapter 13

Case No. 19-12829 (ABA)

**DEBTOR'S APPLICATION FOR A VOLUNTARY
DISMISSAL PURSUANT TO 11 U.S.C. § 1307(b)**

Alberto De Jesus Gallego, the above-captioned debtor (the “*Debtor*”), by and through his attorneys, Vogel Bach & Horn, LLP, as and for its application (the “*Application*”) for entry of an order dismissing the Debtor’s Chapter 13 bankruptcy case pursuant to 11 U.S.C. § 1307(b), respectfully represents as follows:

BACKGROUND

1. On February 11, 2019, the Debtor filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code (the “*Bankruptcy Code*”) in the United States Bankruptcy Court for the District of New Jersey (the “*Court*”).

2. The Debtor has timely filed his Schedules and Statement of Financial Affairs (collectively, the “*Schedules*”).

3. On July 10, 2019, the Debtor filed his modified Chapter 13 Plan under Docket Entry 27.

4. The Debtor is not current on its post-petition payments owing to the lender and currently does not have the ability to cure the arrears and fund a plan.

5. Based upon the foregoing, Debtor respectfully seeks a dismissal of his chapter 13 case.

DISMISSAL OF THE DEBTOR'S CHAPTER 11 BANKRUPTCY CASE

6. 11 U.S.C. § 1307(b) provides in relevant part as follows:

(b) On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable.

7. The Debtor's right to dismiss his Chapter 13 case is absolute except in the limited circumstances where there has been a determination of bad faith by the Court against the Debtor. *See Barbieri v. RAJ Acquisition Corp.*, 199 F3d 616, 620 (2d Cir. 1999); *see also In re Marrama*, 549 U.S. 365, 374 (S. Ct. 2007).

8. For all the foregoing reasons it is respectfully submitted that the Debtor's Chapter 13 case be dismissed.

WHEREFORE, it is respectfully requested that the Court enter an Order dismissing the Debtor's Chapter 13 bankruptcy case and granting such other and further relief as this Court deems just and proper.

Dated: July 23, 2019
Hackensack, NJ

VOGEL BACH & HORN, LLP

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